



State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-2147 FAX (603) 271-6588



Kurt & Tracey Rague  
126 Kendall Pond Rd  
Windham, NH 03087

**LETTER OF DEFICIENCY**

**#SP-2003-18**

August 27, 2003

RE DES Wetlands File #2001-02520 Heath Rd, Gilmanton

Dear Mr. & Mrs. Rague

On August 13, 2003, personnel from the Department of Environmental Services ("DES") conducted an inspection of the above referenced property, identified as Gilmanton Tax Map 39, Lot 5-7, Heath Rd, Gilmanton, New Hampshire (the "Property"). The purpose of this site inspection was to determine compliance with RSA 483-B, The Comprehensive Shoreland Protection Act and RSA 482-A, the New Hampshire Wetlands statute. During the inspection the following deficiencies were noted:

1. Sand fill covering an area measuring approximately 88 feet wide by 75 feet deep has been placed within the bank of Crystal Lake. DES has no record of a permit for placement of fill or beach construction on the Property.

Sand fill has been placed around several trees, threatening their health

A permit is required from the Wetlands Bureau before doing any work in a jurisdictional area, in this case placement of sand along the shoreline for a beach. The statute and rules governing the placement of a beach includes the following:

**RSA 482-states, in part, as follows:**

I. No person shall excavate, remove, fill, dredge, or construct any structures in or on any bank flat, marsh, or swap in and adjacent to any waters of the state without a permit from the department.

**Wt 304.08 states as follows:**

The size of a new beach serving a single residence shall not exceed 900 square feet. No new private beach shall utilize more than 20 percent of the applicant's contiguous shoreline. Replenishment of existing beaches shall be limited to one replenishment in a 6-year period.

In response, you are requested to take the following actions:

1. Within 30 days of receipt of this Letter of Deficiency, submit a restoration plan to DES for review and approval. The restoration plan should include provisions for removal of the sand fill from areas within wetlands jurisdiction and from around the bases of the impacted trees. The following should be included with the restoration plan:

- a. A plan with dimensions, drawn to scale, showing;
    - i. existing conditions,
    - ii. proposed conditions after removal of the sand fill down to the original ground surface.
  - b. If the original ground surface will require stabilization to prevent erosion and siltation; describe how the impacted areas will be stabilized with vegetation.
  - c. A description of the proposed methods for removing the sand fill, and time frame for completion of the restoration.
2. Any material removed, as part of the requested restoration project should be placed outside of DES jurisdiction.
  3. No machinery should be place on the bed of Crystal Lake while performing the requested restoration project.
  4. Implement the restoration plan only after receiving written approval and as conditioned by DES.
  5. If you would like to retain a beach in accordance with Wt 304.08 you may apply for a permit (application enclosed).

RSA 482-A, the New Hampshire Wetlands Law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a permit. If the work is done without a permit, this is considered a violation of RSA 482-A. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

RSA 483-B, CSPA, was enacted to protect and preserve the shorelands of the State to maintain the integrity and exceptional quality of the State's public waters. RSA 483-B and Env-Ws 1400-1409 establishes minimum standards for the future subdivision, use, and development of the shorelands within 250 feet of the state's public waters.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-B will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.


DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.

All documents submitted in response to this Letter of Deficiency should be addressed as follows:

Allyson Gourley, Shoreland Compliance Coordinator  
Wetlands Bureau  
Department of Environmental Services  
6 Hazen Drive  
PO Box 95  
Concord, NH 03302-0095

Enclosed, for your information, are copies of fact sheets explaining the Comprehensive Shoreland Protection Act, a copy of the Act, administrative rules Env-Ws 1400, and proper installation and maintenance of erosion control measures. Should you have any questions regarding this letter, or wish to arrange a meeting, please contact Allyson Gourley or myself at (603) 271-2147.

Sincerely,

  
**COPY**  
Collis G. Adams, CWS  
Administrator  
Wetlands Bureau

CERTIFIED MAIL 7002 3150 0001 5411 1678

cc    Rene Pelletier, Manager, Land Resources Management Program  
      ✓ Gretchen Rule, Administrator, DES Legal Unit  
      Gilmanton Conservation Commission  
      Gilmanton Board of Selectmen  
      David Killoy, US Army Corps of Engineers